

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #3	CCRB Case #: 201610448	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/15/2016 9:30 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 94	18 Mo. SOL 5/15/2018	EO SOL 5/15/2018	
Date/Time CV Reported Thu, 12/22/2016 8:15 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 12/22/2016 8:15 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Levine	20306	958811	094 PCT
2. SGT Novaidul Neon	04592	932193	094 PCT
3. POM Philip Kara	28693	957726	094 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jerry Eustache	14290	956628	094 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christopher Levine	Abuse: Police Officer Christopher Levine entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Philip Kara	Abuse: Police Officer Philip Kara entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.POM Christopher Levine	Abuse: Police Officer Christopher Levine threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
D.POM Philip Kara	Abuse: Police Officer Philip Kara threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E.SGT Novaidul Neon	Abuse: Sergeant Novaidul Neon forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
F.SGT Novaidul Neon	Abuse: Sergeant Novaidul Neon threatened § 87(2)(b) with the use of force.	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB, via the on-line website, on December 22, 2016.

On November 15, 2016, at approximately 9:30 p.m., PO Christopher Levine and PO Philip Kara of the 94th Precinct responded to § 87(2)(b) in Brooklyn in search of § 87(2)(b). § 87(2)(b) Police Department had contacted the 94th Precinct regarding a complaint made against § 87(2)(b) regarding remarks he made via Twitter and during a class he teaches and had requested that the NYPD perform a wellness check on him. Upon arrival, PO Levine and PO Kara entered § 87(2)(b)'s apartment, which he shares with his boyfriend § 87(2)(b) (Allegations A and B). PO Levine and PO Kara questioned § 87(2)(b) about the comments, and then informed him that he would need to go to the hospital for a psychological evaluation. During their conversation, § 87(2)(b) asked whether he could refuse to go, and he was allegedly told by PO Levine and PO Kara that he could refuse but would be removed forcibly if he did not comply (Allegations C and D). The officers then requested Sgt. Novaidul Neon of the 94th Precinct to the scene to confirm whether it was necessary that § 87(2)(b) be removed to the hospital. Sgt. Neon confirmed to § 87(2)(b) that he needed to go to the hospital (Allegation E). § 87(2)(b) asked Sgt. Neon if he could refuse to go, and Sgt. Neon reiterated that he could refuse but would be removed forcibly if he did not comply (Allegation F). An ambulance was requested and § 87(2)(b) was transported to § 87(2)(b) Hospital in Manhattan for a psychological evaluation. There were no arrests or summonses issued as a result of this incident.

This case was added to the sensitive case list when filed due to news articles about the incident in several news outlets, including § 87(2)(b) (BR 11).

There was no video footage available for this incident.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was eligible for mediation, but § 87(2)(b) declined to participate because he did not want to see or speak with the officers.
- As of February 16, 2017, § 87(2)(b) has not filed a Notice of Claim against the City of New York (BR 01).
- As of March 9, 2017, § 87(2)(b) has not filed a Notice of Claim against the City of New York (BR 17).
- § 87(2)(b)
- § 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 03).
- This is § 87(2)(b)'s first CCRB complaint (BR 19).
- PO Levine has been a member of the NYPD for two years. This is his first CCRB complaint.
- PO Kara has been a member of the NYPD for two years. This is his first CCRB complaint.

- Sgt. Neon has been a member of the NYPD for 13 years. He has been the subject of two previous allegations stemming from two cases, with no substantiated allegations.
- § 87(2)(g)

Potential Issues

- § 87(2)(b) PD was unresponsive to the CCRB's inquiries regarding the availability of any police documents related to the incident. It was determined, however, that § 87(2)(b) PD documents were not necessary for the CCRB to reach a disposition given that § 87(2)(b) provided the § 87(2)(b) PD incident report that initiated the incident.

Findings and Recommendations

Allegations Not Pleaded

- **Abuse of Authority:** § 87(2)(b) alleged that an officer threatened to arrest § 87(2)(b) an allegation that § 87(2)(b) did not make himself. Because § 87(2)(b) did not allege a threat of arrest, the allegation has not been pleaded.

Explanation of Subject Officer Identification

- While PO Levine and PO Kara initially told § 87(2)(b) that he needed to go to the hospital, it is undisputed that Sgt. Neon, as the supervisor, made the ultimate decision to have § 87(2)(b) removed to the hospital. Therefore, the forcible removal to the hospital has been pleaded solely against Sgt. Neon.
- All of the officers acknowledged that they expressed to § 87(2)(b) that he would be removed to the hospital forcibly if he did not comply, though they differed in terms of how it was expressed to him. Considering that all of the officers acknowledged expressing to § 87(2)(b) that he would be removed by force if he did not comply, a threat of force has been pleaded against all three officers.

Allegation A – Abuse of Authority: Police Officer Christopher Levine entered § 87(2)(b) § 87(2)(b) in Brooklyn.

Allegation B – Abuse of Authority: Police Officer Philip Kara entered § 87(2)(b) § 87(2)(b) in Brooklyn.

It is undisputed that PO Levine and PO Kara entered § 87(2)(b) § 87(2)(b) in Brooklyn.

§ 87(2)(b) was in his apartment sitting at his desk when his apartment's buzzer went off. § 87(2)(b) went downstairs to see who it was and § 87(2)(b) heard "ominous" voices asking for him by name as § 87(2)(b) walked back to the apartment. § 87(2)(b) attempted to ascertain the reason for their visit, but they only stated that they needed to speak with § 87(2)(b) was sitting with his back to the apartment's entrance, and by the time § 87(2)(b) turned to look, PO Levine and PO Kara were already inside the apartment in the kitchen. § 87(2)(b) believed that the officers simply walked into the apartment after § 87(2)(b) walked in. § 87(2)(b) did not hear the officers ask for permission to enter the apartment and he did not hear § 87(2)(b) invite them in (BR 04).

§ 87(2)(b) stated that he and § 87(2)(b) were inside the apartment when they heard their buzzer go off. The buzzer would not stop, so § 87(2)(b) buzzed the person in, looked outside his apartment's door, and then observed PO Levine and PO Kara. The officers asked if § 87(2)(b)

was in the building. § 87(2)(b) informed the officers that § 87(2)(b) was inside of the apartment, and the officers asked if they could speak to him as they walked towards the apartment. § 87(2)(b) believed he replied, “Yeah, let me get him.” After § 87(2)(b) informed the officers that § 87(2)(b) was inside, § 87(2)(b) left the door open and walked to § 87(2)(b) who was in the living room area, and informed him that some officers wanted to speak to him. Afterward, § 87(2)(b) noticed that the officers had entered the apartment and were in the kitchen. § 87(2)(b) did not recall the officers asking permission to enter the apartment (BR 05).

PO Levine stated that he and PO Kara received a job from the 94th Precinct stationhouse from PO Jerry Eustache, the T.S. operator, stating that they needed to do a wellness check on § 87(2)(b). PO Levine recalled that the job came over as a wellness check, but he noticed that the job mentioned that § 87(2)(b) “wants to kill white people” and that the call came from § 87(2)(b) PD. PO Levine contacted § 87(2)(b) PD and spoke with the officer assigned to the case, who explained that they had received a complaint from a § 87(2)(b) student regarding an incident that occurred in class wherein § 87(2)(b) grabbed a lighter and incited students to burn the American flag. The § 87(2)(b) PD officer also stated that § 87(2)(b) had made statements on Twitter about running over people with Trump stickers and about the Second Amendment and whether “it would be as cool if he bought a gun and started shooting random white people.” The § 87(2)(b) PD officer mentioned that they had called § 87(2)(b) but had not been able to reach him, and that they found that his address was listed in Brooklyn. After arriving at the location, PO Levine rang all the bells because they did not know § 87(2)(b)'s apartment number. Eventually, § 87(2)(b)'s roommate buzzed the officers in. The roommate asked the officers whether they had buzzed his apartment, and PO Levine answered affirmatively. PO Levine then asked if § 87(2)(b) lived there, to which the roommate answered, “Yes, he’s inside. Come in, he’s right here.” The officers entered and observed § 87(2)(b) standing between the living room and the kitchen (BR 06).

PO Kara was the driver of the vehicle and did not know specifically what information PO Eustache gave PO Levine, but PO Levine informed him that they were to conduct a wellness check for § 87(2)(b) because § 87(2)(b) PD had seen some comments by § 87(2)(b) on Twitter about shooting white people and burning the American flag. Prior to arriving to the apartment, PO Levine spoke with § 87(2)(b) PD over the phone. PO Kara did not recall any details about the call as he was driving and not paying attention. Upon arrival, the officers were buzzed into the building and they went to § 87(2)(b)'s apartment. PO Kara believed that they had § 87(2)(b)'s apartment number prior to arriving to the location. The officers knocked. § 87(2)(b)'s roommate answered the door and the officers asked if § 87(2)(b) was available. § 87(2)(b) was to the left of the door inside of the apartment and stated, “Yes, I’m right here.” The officers then asked if it would “alright” to come in and speak to him, and the officers were allowed to enter (BR 07).

Consent to enter a home may be established by conduct, such as leaving a door open while walking away from it. People v. Brown, 234 A.D.2d 211, (N.Y. App. Div. 1st Dep’t 1996) (BR 08).

Both PO Levine and PO Kara claimed that § 87(2)(b) gave them verbal consent to enter after they had asked to speak with § 87(2)(b) and § 87(2)(b) did not recall the officers asking for consent to enter, and claimed that the officers entered the apartment uninvited after § 87(2)(b) went to retrieve § 87(2)(b) § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C – Abuse of Authority: Police Officer Christopher Levine threatened § 87(2)(b) with the use of force.

Allegation D – Abuse of Authority: Police Officer Philip Kara threatened § 87(2)(b) with the use of force.

Allegation F – Abuse of Authority: Sergeant Novaidul Neon threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that after PO Levine and PO Kara entered the apartment, they asked him questions regarding his comments on Twitter and about what occurred at § 87(2)(b). Afterward, PO Levine informed him that he would need to go to the hospital for a psychiatric evaluation due to the statements he made. § 87(2)(b) asked if he was being forced to go, and he was allegedly told that he did not have to comply, but would be taken by force if he did not. § 87(2)(b) clarified that PO Levine and PO Kara were both speaking to him intermittently and he could not recall which officer made which specific statements to him, but PO Levine spoke more often to him during their initial interaction. § 87(2)(b) continued to tell the officers that it was “ridiculous” that he had to go. The officers then called Sgt. Neon to respond so that he could confirm whether it was necessary to remove § 87(2)(b) to the hospital. Sgt. Neon responded and reiterated to § 87(2)(b) that he needed to go to the hospital (discussed below under Allegation E). § 87(2)(b) “pushed back” and told Sgt. Neon that he did not believe it was necessary to take him to the hospital and that he was going to § 87(2)(b) the next day and could speak to whoever wanted to speak to him. Sgt. Neon allegedly reiterated that he would be taken by force if he did not comply (BR 04). § 87(2)(b)'s statement regarding what occurred inside the apartment was generally consistent with § 87(2)(b)'s (BR 05).

Upon entering the apartment, PO Levine asked § 87(2)(b) a series of questions regarding his Twitter comments, which § 87(2)(b) admitted to making. PO Levine then informed § 87(2)(b) that they were at his apartment because § 87(2)(b) PD asked them to do a wellness check because they had been trying to contact him but had been unable to, and then explained that due to the nature of the call he might have to send him to the hospital because it seemed like he was distressed by “everything that was going on.” Sgt. Neon was contacted and he responded to the location shortly after. After PO Levine updated Sgt. Neon on the situation, Sgt. Neon stated, “This is an EDP job” and that it was procedure to take § 87(2)(b) to the hospital. § 87(2)(b) then began “testing” the officers and asked, “What if I refuse to go,” “Do I really have to go,” and stated, “I don’t want to. I have work.” PO Levine told § 87(2)(b) that they would have to handcuff him and forcibly take him to the hospital, and asked him to “please cooperate.” PO Levine clarified that “every one of us” (in reference to himself and the other officers) told § 87(2)(b) that he would be handcuffed and forcibly removed if he did not cooperate. Afterward, § 87(2)(b) agreed to go (BR 06). § 87(2)(g)

§ 87(2)(b) Prior to Sgt. Neon’s arrival, PO Kara did not recall any discussion about § 87(2)(b) having to go to the hospital. After being informed that he would be taken to the hospital, § 87(2)(b) expressed that he did not want to go and asked, “What if I choose not to go to the hospital?” Either PO Kara or Sgt. Neon explained that, “based on the

situation,” they would have to place him in handcuffs for § 87(2)(b)’s safety and for the officers’ safety. § 87(2)(b) then agreed to go. PO Kara denied that § 87(2)(b) was threatened with force if he did not go to the hospital, and reiterated that he was only told that he could be placed in handcuffs (BR 07).

Upon arrival, Sgt. Neon asked § 87(2)(b) if he had made the threats, to which § 87(2)(b) answered affirmatively. Sgt. Neon told § 87(2)(b) that he would have to go to the hospital. At one point, § 87(2)(b) expressed that he did not want to go to the hospital and that he found it unnecessary or ridiculous that he was being taken to the hospital. Sgt. Neon expressed to § 87(2)(b) that he had to go to the hospital and that he would “rather gain [his] cooperation to go to the hospital.” Sgt. Neon could not recall whether it was ever expressed to § 87(2)(b) that force would be used against him if he did not go voluntarily. Sgt. Neon emphasized that § 87(2)(b) walked voluntarily into the ambulance, by which he meant that § 87(2)(b) was not handcuffed and that no physical force was used against him (BR 09).

When appropriate and consistent with personal safety, officers will use de-escalation techniques to gain voluntary compliance of the subject and reduce or eliminate the necessity to use force. NYPD Patrol Guide, Section 221-01 (BR 13).

§ 87(2)(b), § 87(2)(g)

Allegation E – Abuse of Authority: Sergeant Novaidul Neon forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(g)

§ 87(2)(b) alleged that after PO Levine and PO Kara entered the apartment, they asked him whether he worked at § 87(2)(b) to which he answered affirmatively. They then asked, “You didn’t burn an American flag today at school?” § 87(2)(b) answered no. The officers continued, “So you didn’t threaten to kill white people today at school?” Again, § 87(2)(b) answered no. Given the officers’ questions, § 87(2)(b) realized that the officers were referencing some Twitter remarks that he made on November 9, 2016, the day after the presidential election. § 87(2)(b) explained to PO Levine and PO Kara that the Tweets in question asked whether conservative people would think the same about the Second Amendment if they were targeted by gun violence in the same way that people of color have been, or something to that effect. The officers informed § 87(2)(b) that they had received a complaint for § 87(2)(b) PD alleging that § 87(2)(b) had done the actions referenced above and that he had been avoiding § 87(2)(b) PD all day. § 87(2)(b) told the officers that he was on campus all day and denied that § 87(2)(b) PD had attempted to contact him.

§ 87(2)(b) stated that PO Kara asked § 87(2)(b) “Where are the guns?” § 87(2)(b) told him that he did not have nor want a gun. PO Levine told § 87(2)(b) that he could clearly tell that he was not “crazy” just by speaking to him, and that he could see that the Twitter remarks were just an exercise to get people to think about issues on both sides. PO Levine also expressed that

they did not want to take him either, but that it was protocol. § 87(2)(b) recalled that PO Kara called him “irresponsible” for making those statements in such a politicized environment and informed him that they have to take those types of threats seriously, especially after the election. The officers then called Sgt. Neon to respond so that he could confirm whether it was necessary to remove § 87(2)(b) to the hospital. Sgt. Neon responded and reiterated to § 87(2)(b) that he needed to go to the hospital. At some point, Sgt. Neon contacted § 87(2)(b) PD via phone in § 87(2)(b)'s presence. § 87(2)(b) could not hear what was being said. Afterward, Sgt. Neon reaffirmed that they needed to take him to the hospital because it was protocol given that someone had complained that § 87(2)(b) could be a threat. § 87(2)(b) stated that he remained calm during his interaction with the officers.

At § 87(2)(b) Hospital, § 87(2)(b) was seen in the psychiatric ward by three doctors, all of whom did not understand why § 87(2)(b) had been brought there. When asked if he had made any statements in class in regards to shooting white people or burning the American flag, § 87(2)(b) stated that on November 9, 2016, he brought a flag into his classroom and discussed issues about protests involving “doing whatever” to the American flag. § 87(2)(b) however, kept the flag in a Target bag and later returned it. § 87(2)(b) confirmed that he did not make the same remarks in class that he made on Twitter but they spoke generally about Second Amendment issues, and he asked whether people would react differently to the Second Amendment if white people were the ones being targeted by police. § 87(2)(b) stated that it was all “rhetorical, hyperbolic, and certainly not a threat” (BR 04). § 87(2)(b)'s statement regarding what occurred inside the apartment was generally consistent with § 87(2)(b)'s (BR 05).

PO Levine stated that he assessed § 87(2)(b) as an EDP from the job’s description, which showed an individual emotionally disturbed “over the fact that Trump won and is making comments about killing people and running people over.” PO Levine added that those comments were indicative of a person that is “not a well state of mind.” During his conversation with § 87(2)(b) PD, he asked what their procedure would be under the circumstances. The § 87(2)(b) PD officer informed PO Levine that his department had a mobile unit that would go and evaluate the individual. PO Levine responded that the NYPD did not have anything similar and that they would have to take § 87(2)(b) to the hospital to have him undergo a psychiatric evaluation, to which the § 87(2)(b) PD officer responded, “Do what you gotta do.” PO Levine confirmed that § 87(2)(b) PD did not specifically request that they take § 87(2)(b) to the hospital, and that the discussion was more of a general discussion about protocol. § 87(2)(b) PD did not label § 87(2)(b) an EDP, and only stated that § 87(2)(b) was “flipping out.” PO Levine explained that the information provided by § 87(2)(b) PD was taken as credible, but the NYPD was under no obligation to follow the outside agency’s lead in the investigation and would operate under the NYPD Patrol Guide.

Upon entering the apartment, PO Levine asked § 87(2)(b) “Sir, have you said that you’re going to buy a gun, or if you bought a gun, you would shoot random white people?” § 87(2)(b) answered that he had. PO Levine then asked him if he had made statements about burning the American flag, and § 87(2)(b) answered that he had. § 87(2)(b) then stated that these questions were posed in a rhetorical manner to “get people’s different points of view.” PO Levine then informed § 87(2)(b) that they were at his apartment because § 87(2)(b) PD had been unable to contact him and asked them to do a wellness check. § 87(2)(b) denied receiving any calls from § 87(2)(b) PD. PO Levine also asked § 87(2)(b) whether he had any weapons that could be used to hurt himself or others, and § 87(2)(b) stated that he did not. PO Levine then explained to § 87(2)(b) that given the nature of the call he might have to send him to the hospital because it

seemed like he was distressed by “everything that was going on.” PO Levine acknowledged that he expressed to § 87(2)(b) that he did not want to take him to the hospital, but also told § 87(2)(b) that they had procedures to follow. PO Levine also asked § 87(2)(b) if he was on medication, and § 87(2)(b) told him that he takes anxiety medication daily. § 87(2)(b) did not seem intoxicated, and PO Levine noted that § 87(2)(b) was upset during the incident but remained polite.

Regarding whether § 87(2)(b)'s behavior in the apartment seemed irrational, PO Levine stated, “Yes, he was upset and the fact that he made those comments, maybe, you know. I don’t know who he is. I don’t read minds either.” When asked if § 87(2)(b) seemed lucid and whether he was expressing logical thoughts, PO Levine stated, “No, he was upset,” and, “What he said was short and straightforward.” When asked whether, based on his observations, he believed § 87(2)(b) was a threat to himself or others, PO Levine stated that he did not know him and, “Obviously he was going to state that he wanted to post them as rhetorical questions. I don’t know that. So why would I take a risk and he goes out the next day and says ‘hey, this is the perfect moment to go run over people.’” PO Levine also cited a recent incident abroad where someone “got in a car and ran over people.” PO Levine added that “all these things are going on based on political views and it is the same thing.” When asked whether any other factors led him to believe § 87(2)(b) was a threat to himself or others, PO Levine stated that he did not know what was going through § 87(2)(b)'s head, and also emphasized that § 87(2)(b) was on medication. Sgt. Neon was contacted and he responded to the location shortly after. After PO Levine updated Sgt. Neon on the situation, Sgt. Neon stated, “This is an EDP job” and that it was procedure to take § 87(2)(b) to the hospital. PO Levine stated that it is always the supervisor on the scene who makes the decision to send someone to the hospital. § 87(2)(b) agreed to go, was taken outside and transported to § 87(2)(b) Hospital in an ambulance. § 87(2)(b) was not handcuffed during the incident and he was allowed to retain his property and to Tweet (BR 06).

PO Kara’s testimony was generally consistent with PO Levine’s, except where otherwise noted. Regarding the Tweets, PO Kara believed that § 87(2)(b) said something about them as “being sarcasm.” PO Kara also noted that § 87(2)(b)'s body language indicated that he was “a little uncomfortable” with the officers’ presence, and that § 87(2)(b) was “a little upset,” but § 87(2)(b) did not yell during their interaction and did not act in a threatening manner. When asked if he believed § 87(2)(b) was a threat to himself or to others, based on his observations, PO Kara stated, “With EDPs, it could be; we just don’t know. The fact that he’s on medication, we just don’t know” (BR 07).

Sgt. Neon first became aware about the complaint from § 87(2)(b) PD after he received a phone call from PO Kara and PO Levine stating that they had located § 87(2)(b). Afterward, Sgt. Neon spoke with PO Eustache regarding the § 87(2)(b) PD call and he was informed that § 87(2)(b) PD was looking for § 87(2)(b) because he had made some threats via Twitter. Prior to arriving to § 87(2)(b)'s apartment, Sgt. Neon spoke with PO George Roitzsch of § 87(2)(b) PD to ask about the job and to verify its details. PO Roitzsch told Sgt. Neon that they had a “professor missing from campus that burned the U.S. flag and tweeted about exercising his Second Amendment rights and shooting random white people.” Sgt. Neon stated that he asked PO Roitzsch about their protocol – which involves a mobile unit that goes and evaluates suspected EDPs – and then informed PO Roitzsch that the NYPD does not have that service and that people are evaluated via the hospital. Sgt. Neon did not recall if he was informed how long § 87(2)(b) PD had been looking for § 87(2)(b) and Sgt. Neon did not ask when the threats had been made.

Upon arrival, Sgt. Neon asked § 87(2)(b) if he had made the threats, to which § 87(2)(b) answered affirmatively. Sgt. Neon then asked him why he made the threats, and § 87(2)(b) said “something regarding double standards” or about “trying to have double standards.” § 87(2)(b) did not explain what he meant by “double standard.” Sgt. Neon also asked § 87(2)(b) whether he took any medication, and § 87(2)(b) told him that he takes anxiety pills. Sgt. Neon did not recall if § 87(2)(b) mentioned whether he was taking his anxiety medication at the time. Based on that information, Sgt. Neon told § 87(2)(b) that he would have to go to the hospital. Sgt. Neon emphasized that, at that time, they had a “missing EDP” and that they did not know anything about § 87(2)(b). Sgt. Neon also cited “based on what’s going on in the country” as a reason for taking § 87(2)(b) to the hospital. The conversation with § 87(2)(b) lasted approximately one minute, and Sgt. Neon did not recall asking § 87(2)(b) to further explain his comments. Sgt. Neon noted that there was not any discussion about guns.

Sgt. Neon stated that § 87(2)(b) was not speaking reasonably and that, “He basically wasn’t happy that we had to take him to the hospital.” When asked if § 87(2)(b) ever clarified whether he actually intended to shoot people or whether he was thinking of going through with those threats, Sgt. Neon stated that § 87(2)(b) admitted to making those statements, but he did not “know the extent to it.” Regarding § 87(2)(b)’s demeanor, Sgt. Neon stated that § 87(2)(b) was “walking around back and forth” and that his eyes and face were red, which prompted Sgt. Neon to think that § 87(2)(b) needed to be taken to the hospital for an evaluation for making the threats. Sgt. Neon did not observe any signs of intoxication on § 87(2)(b). Sgt. Neon did not observe § 87(2)(b) take any actions or make any comments during their interaction that would lead him to believe that § 87(2)(b) was a threat to himself or others. Regarding protocol, Sgt. Neon was asked whether the NYPD is obligated to follow the request of an outside police agency, to which he answered, “Correct,” but he confirmed that he acted in his capacity as an NYPD police officer and was bound by the NYPD Patrol Guide (BR 09).

PO Eustache was the T.S. Operator when § 87(2)(b) PD contacted the 94th Precinct regarding § 87(2)(b). PO Eustache did not recall what time he received the call from § 87(2)(b) PD, he did not recall what type of job he assigned it as, and he could not recall clearly what he conveyed to the responding sector. When asked what had been conveyed by § 87(2)(b) PD during the phone call, PO Eustache stated that the officer informed him that a former § 87(2)(b) professor was “possibly” making threats on social media. PO Eustache did not recall specifically what types of threats were made, but he recalled that they were about either hurting himself or hurting others (BR 10).

The Twitter messages made by § 87(2)(b) on November 9, 2016, as reported in various news outlets and in the § 87(2)(b) PD report, were as follows: at 7:35 a.m., § 87(2)(b) tweeted, “If I see any Trump bumper stickers on the road today, my brakes will go out and I’ll run you off the road.” At 9:35 a.m., he tweeted, “My students are not ok. None of us are ok. No one knows what to do. We just cried together for 90 minutes.” At 3:17 p.m., § 87(2)(b) tweeted, “My depression is morphing into seething white-hot rage as the day wears on. And by ‘white-hot,’ I mean rage directed at white people.” At 10:20 p.m., § 87(2)(b) tweeted, “Will the 2nd amendment be as cool when I buy a gun and start shooting random white people or no?” (BR 11, 12).

The § 87(2)(b) PD incident report noted the following: On November 15, 2016, at approximately 6:27 p.m., PO Roitzsch received an email from a § 87(2)(b) affiliate reporting concerns from a student’s parent in regards to an incident that occurred on November 9, 2016, in which § 87(2)(b) “placed an American flag on a desk, informed the class that he would be cancelling class, and encouraged his students to approach the American flag and light the flag on fire as well as utilizing the provided scissors to cut the flag.” § 87(2)(b) also made a comment in

class regarding the Second Amendment and asking how “these” people were going to feel when he goes “out and starts shooting random white people?” The report also noted that § 87(2)(b) posted on Twitter that the Second Amendment allowed him to purchase a firearm and “randomly shoot white people.” At approximately 7:12 p.m., PO Roitzsch contacted the 94th Precinct regarding § 87(2)(b) and he was informed that they would send a unit to § 87(2)(b)’s address. At approximately 9:12 p.m., an NYPD sergeant contacted PO Roitzsch and asked about their “intent in making contact with § 87(2)(b).” PO Roitzsch told the officer that they would have conducted an evaluation of § 87(2)(b) had he been on campus. The NYPD sergeant then explained that the best the NYPD could do was make contact with § 87(2)(b) and have him speak with EMS to see if he would “voluntarily commit to a hospital.” PO Roitzsch informed the sergeant that “this would be helpful” and informed him that there were no criminal charges against § 87(2)(b). At 9:27 p.m., PO Roitzsch was contacted by the same sergeant and was informed that § 87(2)(b) admitted to bringing the American flag to class and that he had been frustrated by the elections. The sergeant also stated that § 87(2)(b) “voluntarily agreed” to go to the hospital for an evaluation (BR 12).

§ 87(2)(b)’s Prehospital Care Report noted that the ambulance was requested at 9:25 p.m. and was on scene at 9:48 p.m. The narrative section noted that § 87(2)(b) stated that he “made stupid statements on his Twitter account causing serious concern at his job and 911 was called to have him assessed.” § 87(2)(b) denied any mental history or suicidal intentions, and he denied any intentions to hurt others. § 87(2)(b)’s medical records from § 87(2)(b) Hospital noted that § 87(2)(b) explained that he was brought to the hospital for a psychiatric evaluation because he reportedly posted some comments on Twitter about guns and the Second Amendment, which prompted the police to bring him in for the evaluation. § 87(2)(b) acknowledged taking medication for his OCD and to seeing a therapist. Medical staff assessed that § 87(2)(b) did not show any signs of depression, mania, or psychosis, and that he did not meet criteria for involuntary or voluntary hospitalization, that he is not at risk of suicide or violence, and that he is able to care for himself. § 87(2)(b)’s medical records also noted that § 87(2)(b) appeared “appropriately anxious” under the circumstances, but he was also “calm and cooperative” (Privileged Documents).

A person is considered to be emotionally disturbed, and therefore must be taken into protective custody, when he appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. NYPD Patrol Guide, Section 221-13 (BR 14). Serious physical injury is defined as a physical injury or illness that creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ or limb, such as broken/fractured bones, an injury requiring hospital admission, or a gunshot wound. NYPD Patrol Guide, Section 221-03 (BR 15). Other examples of serious injuries include: death, amputation or crushed limb, fractured skull, severe bleeding, unconsciousness, or admission to a hospital in critical condition. NYPD Patrol Guide, Section 211-19 (BR 16).

§ 87(2)(b), § 87(2)(g)

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Squad: _____

Investigator: _____
Signature Print Date

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Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date